THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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W.P.NO.15255 OF 1994 and WPMP.NO.9220 OF 2003

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DATE:11.08.2005

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BETWEEN:

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Regional Manager, The Oriental Insurance Company Ltd., II Floor, Snehalatha complex, Green Lands, Hyderabad and another.

Petitioners.

And

Government of Andhra Pradesh, rep. By its Secretary, Social Welfare and Labour Department, Secretariat, Hyderabad and others.

O R D E R

This writ petition is filed for issue of writ of Mandamus, declaring (1) the G.O.Ms.No.235, Labour, Employment, Nutrition and Technical Education (Labour – IV) dated 18.8.1986 as illegal, void, contrary to law and contrary to the principles of natural justice; (2) the order passed by the Assistant Commissioner of Labour designated for the purpose of dealing with W.C. cases as Commissioner for Workmen's compensation in pursuance of the above G.O., in W.C.No.55/92 dated 26.6.1993 as void ab initio, illegal, contrary to law, without jurisdiction and contrary to the principles of natural justice; and (3) to direct the respondents 5 to 7 to refund the amount of Rs.88,926/- to the petitioners.

2. The contention of the learned counsel for the petitioners is that no general or special order as contemplated under Section 20(2) of the Workmen's Compensation Act, 1923 (for short 'the Act'), has been issued by the State Government to regulate

the distribution of business between the authorities and as such, the impugned G.O. is arbitrary and illegal and, consequently the order dated 26.6.1993 in W.C.No.55/1992 passed in pursuance of the impugned G.O., is without jurisdiction. Therefore, he sought for a direction that the amount paid to respondents 5 to 7 be refunded to the petitioners.

3. The learned Government Pleader appearing for official respondents contended that the Government have issued the impugned G.O. while exercising the power conferred under sub sections (1) and (2) of Section of 20 of the Act and also in partial modification of the order in the notification no.XIV issued in G.O.Ms.No.128, L.E.N. & T.E. Department dated 6.4.1984 and designated the officer at headquarters area wise, for dealing with the matters arising under the Act. He contended that there is no ambiguity in the impugned G.O. at all. He further contended that the writ petition has become infructuous, in view of the fact that the writ was filed questioning the G.O., which was not in force as on the date of filing of the writ petition. For this purpose, the learned Government Pleader drew the attention of this Court to paragraph no.3 of the counter affidavit, the relevant portion of which reads as under:

> "In reply to paras 2 and 3, it is submitted that impugned G.O., it is not in force, because in suppression of the impugned G.O., G.O.Ms.No.149, Women Development, Child Welfare and Labour dated 12.10.1991 has come in force, as such, the writ petition is liable to be dismissed".

4. In view of the specific averment made in the counter affidavit and also having regard to the facts and circumstances of the case, the writ petition is dismissed as infructuous. No costs.

5. While the matter is taken up for hearing, it was also brought to the notice of this court that the petitioners have filed W.P.M.P.NO.9220/2003 seeking permission of the court to allow the following amendment in the prayer:

> "by declaring the issuance of G.O.Ms.No.149, Women Development, Child Welfare and (Labour IV) Department dated 12.10.1991 is arbitrary exercise of power by the State Government, wrong dealing of powers and is liable to be set aside"

6. Though the above WPMP was filed on 21.2.2003, no steps have been taken by the petitioner to get the petition disposed of. Therefore, at this belated stage, I do not

find any justification to order the amendment petition. Hence, the WPMP is also dismissed. But however liberty is given to the petitioner to question the validity of the G.O.Ms.No.149, Women Development, Child Welfare and Labour dated 12.10.1991, if so advised.

AVS ----------

11 .08.2005